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| VANTERPOOL, LESTER L              |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/575,654

**Applicant(s)**

BINDER ET AL.

**Examiner**

LESTER L. VANTERPOOL

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on August 12, 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14 – 28 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14, line 5 recites: "a tapered region". The specification filed on March 14, 2006, pages 1 – 5 does not identify, disclose or define the structural limitation of "a tapered region". Claim 32 recites "crossbar tapers...said taper beginning at a step feature.." The specification fails to disclose what "tapers" means. Furthermore, it is unclear how taper relates to the step and these have different meanings in the art, i.e., a taper is gradual or smooth transition between thicknesses whereas a step is an abrupt change in thickness.

Therefore, applicant's interpretation of "a tapered region" and "tapers" is unclear and for the purpose of examination, the broadest reasonable interpretation will be applied to the structural limitation "a tapered region" and "tapers".

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 & 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bott (U.S. Patent Number 4277009).

Bott discloses at least one rail (56 & 58) for extending at a distance from the roof surface (12) and curving towards the roof surface at the end region of the rail (56 & 58) (See Figure 4), wherein the end region (See Figure 5) includes the tapered region (See Figure 5) having the recessed and substantially flat underside (See Slope in Figure 5); and

the support (68) for attaching the rail (56 & 58) to the roof surface (12), the support (68) engaging the underside of the rail (58) at the top surface (See Figure 5) of the support (68), the top surface (See Figure 4) of the support (68) being substantially flat and sized to fit the tapered region (See Figures 4, 5, 6 & 7).

Regarding claim 15, Bott discloses the rail (56) having a substantially tubular cross section (See Figure 4).

Regarding claim 16, Bott discloses the support (68) has the retaining projection (72) protruding into the interior of the rail (58) (See Figures 4, 5, 6 & 7).

Regarding claim 17, Bott discloses the retaining projection (72) is located in the end of the rail (58) (See Figure 5).

Regarding claim 18, Bott discloses the cross section (See Figures 5, 6 & 7) of the retaining projection (72) is configured to match the internal cross section of the rail (58) at the end of the rail (58) (See Figure 5).

Regarding claim 19, Bott discloses the top surface of the support (68) has the arc-shaped longitudinal cross section.

Regarding claim 20, Bott discloses the underside of the rail (58) has the arc-shaped longitudinal cross section (See Figure 5).

Regarding claim 21, Bott discloses the top surface of the support (68) has the convex arc shape (See Figure 7).

Regarding claim 22, Bott discloses the underside of the rail has the concave arc shape (See Figure 5).

Regarding claim 23, Bott discloses the tapered region defines the step (See Figure 5), wherein the rear section of the support (68) abuts the rear section of the step (See Figure 5).

Regarding claim 24, Bott discloses the support (68) us attached to the rail (58) by at least one threaded bolt (45) (See Figures 4 & 5).

Regarding claim 25, Bott discloses the head of the threaded bolt (45) is capable of being located in the recess in the support (68) (See Figure 4).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 26, 27, 28, 29, 30, 31, 32 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bott (U.S. Patent Number 4277009) in view of Stapleton (U.S. Patent Number 7204396).

Bott discloses the mounting plate (16) between the support (68) and the roof surface (12).

However, Bott does not disclose the mounting plate having the retaining projection protruding into the interior of the rail.

Stapleton teaches the mounting plate (26) having the retaining projection (66) protruding into the interior of the rail (24) (See Column 5, lines 29 – 35) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the mounting plate having the retaining projection protruding into the interior of the rail as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Regarding claim 27, Bott does not disclose the retaining projection is located in the end of the rail.

Stapleton teaches the retaining projection (66) being located in the end of the rail (24) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the retaining projection is located in the end of the rail as taught by Stapleton with the roof rack of Bott in order to enhance anchoring.

Regarding claim 28, Bott does not disclose the cross section of the retaining projection is configured to match the internal cross section of the rail at the end of the rail.

Stapleton teaches the cross section of the retaining projection (66) being configured to match the internal cross section of the rail (24) at the end of the rail (24) (See Column 5, lines 29 – 35) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cross section of the retaining projection is configured

to match the internal cross section of the rail at the end of the rail as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Regarding claim 29, Bott discloses the attachment surface (12) on the vehicle; the mounting plate (16) fastened to the attachment surface (12); the crossbar (56 & 58) having ends retained by the mounting plate (16), the ends having the substantially flat underside (See Figure 5); and at least two supports (68) having substantially flat top surfaces, the at least two supports located between the crossbar and the mounting plate (16) at the curved ends of the crossbar (58) and mating with the substantially flat underside of the crossbar (58).

However, Bott does not disclose the crossbar having curved ends.

Stapleton teaches the crossbar (24) having the curved ends (54) (See Figures 1A, 2 & 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the crossbar having curved ends as taught by Stapleton with the roof rack of Bott in order to enhance aerodynamics.

Regarding claim 30, Bott discloses the crossbar (56 & 58) has a hollow interior (See Figures 4 & 5).

Regarding claim 31, Bott does not disclose the mounting plate includes the retaining projection for locating in the hollow of the crossbar.



Stapleton teaches the mounting plate (26) includes the retaining projection (66) for locating in the hollow of the crossbar (24) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the mounting plate include the retaining projection for locating in the hollow of the crossbar as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduces excess movement.

Regarding claim 32, Bott discloses the taper beginning at the step feature abutting the vertical surface of the support (68) (See Figure 5).

However, Bott does not disclose the crossbar tapering to the semi-circular configuration at the curved ends.

Stapleton teaches the crossbar (28 & 24) tapering to the semi-circular configuration (See Figure 4) at the curved ends (54) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the crossbar taper to the semi-circular configuration at the curved ends as taught by Stapleton with the roof rack of Bott in order to enhance aerodynamics.

Regarding claim 33, Bott discloses the hollow interior (See Figures 4 & 5) is filled with material at least at the ends (See Figure 5).

However, Bott does not disclose the crossbar and material machined to the semi-circular configuration at the curved ends.

Stapleton teaches the crossbar (28 & 24) and material machined to the semi-circular configuration at the curved ends (54) (See Figures 1, 2 & 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the crossbar and material machined to the semi-circular configuration at the curved ends as taught by Stapleton with the roof rack of Bott in order to enhance aerodynamics.

### ***Response to Arguments***

7. Applicant's arguments filed August 12, 2008 have been fully considered but they are not moot in view of new grounds of rejection.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LESTER L. VANTERPOOL whose telephone number is (571)272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. L. V./  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782